



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Lee Miller

JAN 25 2018

Placerville, CA 95667

RE: MUR 7278

Dear Mr. Miller:

The Federal Election Commission reviewed the allegations in your complaint received by the Commission on September 22, 2017. Based upon the information provided in the complaint, as well as information provided by the Respondents in this matter, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations and close the file in this matter. Accordingly, the Commission closed its file on January 9, 2017. The Factual and Legal Analysis, which more fully explains the Commission's finding, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

If you have any questions, please contact Wanda D. Brown, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: 
Jeff S. Jordan
Assistant General Counsel

Enclosure: Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: McClintock for Congress MUR 7278
 and David Bauer
 as treasurer

I. INTRODUCTION

This matter was generated by a Complaint alleging that McClintock for Congress and David Bauer, in his official capacity as treasurer (the "Committee") violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by incorrectly describing disbursements in disclosure reports filed with the Federal Election Commission (the "Commission"). The Commission exercises its prosecutorial discretion to dismiss the allegations.

II. FACTUAL AND LEGAL ANALYSIS

The Complaint alleges that since 2014, the Committee has incorrectly described the purpose of disbursements to California Disbursement Unit for child support payments made on behalf of a Committee staff member.¹ The Complaint states that the Committee avoids disclosing the staffer's total salary by disclosing a portion of it as disbursements for "child support."² Further, the Complaint alleges that the Committee failed to disclose the type and purpose for a \$254.14 disbursement to the Capitol Hill Club in Washington, D.C. The Committee described the purpose of the disbursement as "meeting."³

The Committee responds that it withholds child support from the staffer pursuant to a court order, and that it reported the disbursements as instructed by the Commission's Reports

¹ Compl. at 2 (Sept. 22, 2017).

² *Id.*

³ *Id.*

1 Analysis Division ("RAD").⁴ The Committee does not address the allegation regarding the
2 \$254.14 disbursement.

3 The Act and the Commission's regulations require each treasurer of an authorized
4 political committee to file quarterly reports of receipts and disbursements.⁵ Further, political
5 committees are required to itemize disbursements, including a brief description of each
6 disbursement's purpose.⁶ The Commission's *Statement of Policy: "Purpose of Disbursement"*
7 *Entries for Filings with the Commission* instructs that descriptions, when considered along with
8 the identity of the disbursement recipient, must be sufficiently specific to make clear the purpose
9 of the disbursement.⁷ Further, the policy includes a non-exhaustive list of sufficient and
10 insufficient "purposes" for disbursements made by political committees, and instructs political
11 committees to contact their Reports Analysis Division analysts with questions as to how to report
12 the purposes of disbursements.⁸

13 Regardless of whether the Committee violated the Act, given the technical nature of the
14 alleged violations and in furtherance of the Commission's priorities, relative to other matters
15 pending on the Enforcement docket, the Commission exercises its prosecutorial discretion and
16 dismisses the allegations that the Committee violated 52 U.S.C. § 30104(b)(4)-(7).⁹

⁴ Resp. at 1 (Oct. 2, 2017).

⁵ 52 U.S.C. § 30104(a), (b); 11 C.F.R. §§ 104.1, 104.3(a), (b), 104.5(a).

⁶ 52 U.S.C. § 30104(b)(4)-(6); 11 C.F.R. § 104.3(b)(3), (4).

⁷ Statement of Policy "Purpose of Disbursement" Entries for Filings with the Commission, 72 Fed. Reg. 887 (Jan. 9, 2007).

⁸ *Id.* at 888.

⁹ *Heckler v. Chaney*, 470 U.S. 821 (1985).